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Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
NORTHERN DIVISION**

**JM4 TACTICAL, LLC; and JAMES
CHADWICK MYERS,**

Plaintiffs,

versus

**E & R LLC dba HER TACTICAL;
*et. al.***

Defendants.

**PLAINTIFFS' APPENDIX IN SUPPORT OF
CLAIM CONSTRUCTION BRIEF**

LPR 4.3

Case No. 1:22-cv-01121-AMA-DBP

Judge Ann Marie McIff Allen
Magistrate Judge Dustin B. Pead

Jury Demanded

TO THE HONORABLE COURT:

By this submission Plaintiffs attempt to comply with the pagination, searchable, and bookmarking criteria of LPR 4.3(c)(2). Accordingly, various PDF documents have been transcribed herein, the source files of which are with Plaintiff and can be produced upon request for authentication or judicial notice.

Respectfully Submitted,

/Brandon J. Leavitt/
Brandon James Leavitt

Counsel for Plaintiffs

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TAB 1: EXCERPTS FROM DEPOSITION OF VICKY ARLENE JOHNSTON

Page 78, Lines 5-9 (Lack of Technical Knowledge Regarding Magnet Function)

THE WITNESS: VICKY ARLENE JOHNSTON

DATE: November 2, 2023

BY MR. LEAVITT:

Q. Does that stacked magnet function as a single magnet?

A. I don't really know how to answer that because I don't have any technical backing for that. I mean, if that's true, I don't know.

Page 179, Lines 2-7 (Not an Expert on Magnets)

THE WITNESS: VICKY ARLENE JOHNSTON

DATE: November 2, 2023

BY MR. LEAVITT:

Q. So let me ask this question again: Do two smaller magnets that are secured together function like a single thicker magnet?

A. So I am not an expert on magnets. If that -- like, I am not somebody who has gone to school or done a lot of research on magnetic force and stacking magnets and things like that. I have not done any type of analysis on stacking magnets. So I still don't know how to answer it.

TAB 2: EXHIBIT 26 TO DEPOSITION OF VICKY ARLENE JOHNSTON

TotalElement Article (JM4HT-6701)

Source: TotalElement Technical Documentation

Bates Number: JM4HT-6701

Title: "Will stacking magnets together make them stronger?"

Relevant Text:

"The answer is yes! By adding one disc magnet or block magnet on to the other, e.g. stacking, **the stacked magnets will work as one bigger magnet and will exert greater magnetic performance.**

Two identical disc or block magnets stacked together are almost twice as strong as one magnet as long as the thickness of the stack does not exceed the width/diameter of the stack."

US Magnetix Article (JM4HT-6710)

Source: US Magnetix Technical Guide

Bates Number: JM4HT-6710

Title: "How to Strengthen a Magnet"

Relevant Text:

"One other way to make a weak magnet stronger is to stack more of them together. **The stacked magnets will work as one to exert a greater magnetic force.** The more magnets you stack, the stronger they will be. That is, until the length of the stack is equal to the diameter of the magnet."

Email from Calvert Gamwell re: Magnet Strategy/JM4Tactical (JM4HT-12360)

From: Calvert Gamwell

Sent: Monday, January 23, 2023 11:39 PM

To: Shawndalyn Myers; Calvert Gamwell

Subject: Magnet Strategy/JM4Tactical

Bates Number: JM4HT-12360

To whom it may concern:

As an established neodymium magnet distributor, we are proud to serve many of the world's top manufacturers. We currently stock over 20 million magnets in 350 different sizes, shapes and configurations, and ship thousands of magnets each day to over 150,000 satisfied customers.

In regard to our analysis of JM4Tactical's magnet application, we believe the following:

First it is more cost-effective, as **combining two thinner less expensive magnets costs less than one thicker neodymium disc magnet.**

Second, handling thicker magnets is more dangerous to employees, as strong magnets such as those used by jm4tactical pose an ongoing and imminent risk when handled. They can forcefully pinch and lacerate a handler's fingers and result in injuries severe enough to warrant a trip to the ER. This can also result in damaged magnet components and products, increased delivery delays, staff downtime - in short a tremendous increase in waste and substantial loss of productivity.

Third, by enabling handlers to work with more manageable "modular" magnet units, i.e. the thinner less-dangerous discs, assembly workers can efficiently combine magnetic components while minimizing workplace injuries and associated costs.

TAB 3: DICTIONARY DEFINITIONS

Merriam-Webster Dictionary - "fasten"

URL: <https://www.merriam-webster.com/dictionary/fasten>

Date Accessed: August 29, 2025

fasten | verb | fas·ten | 'fas-ən

Definition:

transitive verb

- 1 a: to attach especially by pinning, tying, or nailing
- b: to make fast and secure
- c: to fix firmly or securely
- 2: to fix or set steadily

- fastened her attention on the speaker

intransitive verb

- 1: to become fast or fixed
- 2: to take a firm grip or hold

Cambridge Dictionary - "protrusion"

URL: <https://dictionary.cambridge.org/us/dictionary/english/protrusion>

Date Accessed: August 29, 2025

protrusion | noun | UK /prə'truːʒən/ US /prou'truːʒən/

Definition:

something that sticks out from a surface, or the act of doing this:

- The small protrusion on the rock face made for an excellent handhold.

Cambridge Dictionary - "housing"

URL: <https://dictionary.cambridge.org/dictionary/english/housing>

Date Accessed: August 29, 2025

housing | noun | UK /'haʊ.zɪŋ/ US /'haʊ.zɪŋ/

Definition:

SPECIALIZED: a case or covering that surrounds a machine or part of a machine:

- The torpedo's guidance system is concealed in the housing at the nose of the weapon.
- The rotary engine housing prevents scuffing.

Merriam-Webster Dictionary - "thickness"

URL: <https://www.merriam-webster.com/dictionary/thickness>

Date Accessed: August 29, 2025

thickness | noun | thick·ness | 'thik-nəs

Definition:

- 1: the smallest of three dimensions (length, width, and thickness)
- 2: the quality or state of being thick
- 3: the measure of the smallest dimension of a solid figure

- the thickness of the board is one inch 4: LAYER, SHEET
- a thickness of canvas

Merriam-Webster Dictionary - "integral"

URL: <https://www.merriam-webster.com/dictionary/integral>

Date Accessed: August 29, 2025

integral | adjective | in·te·gral | 'in-ti-grəl, in-'te-grəl

Definition:

- 1 a: essential to completeness : CONSTITUENT
- an integral part of the curriculum 2: formed as a unit with another part

- a seat with integral headrest 3: composed of constituent parts : INTEGRATED 4: lacking nothing essential : ENTIRE
